

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

-----X		:	
JERALD TIMES,		:	
	Plaintiff,	:	
		:	23cv3229 (DLC)
-v-		:	
		:	<u>ORDER</u>
SUCCESS ACADEMY CHARTER SCHOOLS, et		:	
al.,		:	
	Defendants.	:	
-----X		:	

DENISE COTE, District Judge:

This Order describes, inter alia, the documents that shall be deemed to constitute the plaintiff's opposition to the defendants' motion for summary judgment.

This action was filed on April 18, 2023. On April 2, 2024, plaintiff's counsel filed a motion to withdraw. That application was granted on April 23. Meanwhile, on April 19, the defendants moved for summary judgment. That motion was stayed to permit the plaintiff to retain new counsel or prepare to represent himself. On May 14, the plaintiff filed a notice of pro se appearance.

On May 28, the defendants renewed their motion for summary judgment. The plaintiff's opposition was due on June 28. That date was extended to July 29.

The plaintiff filed an opposition to the motion for summary judgment on July 30, docketed as ECF No. 61. The plaintiff

thereafter submitted zip files to the Pro Se office which could not be processed. On July 31, the plaintiff was instructed how to file any further submissions and to do so by August 2. The plaintiff filed additional documents on August 2, docketed as ECF No. 62. On August 5, the plaintiff filed additional documents, which were entered on August 6 as ECF Nos. 63, 63-1, 63-2, and 63-3. In a letter filed on August 9, the plaintiff explained that his opposition to the defendants' motion for summary judgment is the August 5 filing.

In response to the defendant's Rule 56.1 Statement of Material Facts, the plaintiff was instructed to submit

a correspondingly numbered paragraph responding to each numbered paragraph in the statement of the moving party, and if necessary, additional paragraphs containing a separate, short and concise statement of additional material facts as to which it is contended that there exists a genuine issue to be tried.

The materials docketed as pages 139 through 226 of ECF No. 63-1 shall be construed as the plaintiff's response to the defendants' Rule 56.1 Statement of Material Facts. Pages 1 through 25 of ECF No. 63 are duplicative of portions of that filing and will not be separately considered.

The plaintiff was advised that he must submit evidence in support of his opposition, such as witness statements or documents. The plaintiff was instructed that any witness

statements must be in the form of affidavits. The plaintiff has submitted the following affirmations:

1. Affirmation of Giovanni Merrit, ECF No. 63, pages 44 through 48;
2. Affirmation of Kasaun Eric Henry, ECF No. 63, pages 49 through 53;
3. Affirmation of Tyrell Harriot, ECF No. 63, pages 54 through 60;
4. Affidavit of Dr. Alexey W. Root, ECF No. 63, pages 61 through 64;
5. Affirmation of Cathy Meadows, ECF No. 63, pages 65 through 66;
6. Affirmation of David MacEnulty, ECF No. 63, pages 67 through 69;
7. Affirmation of Jemina Watstein, ECF No. 63, pages 155 through 156;
8. Affirmation of Ray Rogers, ECF No. 63-1, pages 135 through 138.

The plaintiff provided the following statistical analyses in opposition to the defendants' motion for summary judgment:

1. Demographics of Success Academy schools, ECF No. 63, pages 70 through 88;
2. Analysis of furlough policies, ECF No. 63, pages 89 through 109;
3. Demographic disparities in internal chess competition locations, ECF No. 63, pages 110 through 134;
4. Promotion and demotion practices at Success Academy, ECF No. 63-1, pages 63 through 88.

The plaintiff has provided the following documents in opposition to the defendants' motion:

1. Jerald Times, ChessBase, ECF No. 63-1, page 31;
2. Resume of Jerald Times, ECF No. 63-1, pages 60 through 62;
3. 2019 National Elementary Championship team standings, labeled as Exhibit A 2, ECF No. 63-1, pages 241 through 245;
4. Success Academy chess program documents, labeled Exhibit A 3, ECF No. 63-1, pages 246 through 250;
5. Joe Lemire, A Star of the 'Raging Rooks,' He Helped Change the Face of N.Y.C. Chess, N.Y. Times (Nov. 6, 2020), labeled Exhibit A 7, ECF No. 63-1, pages 251 through 256;
6. Chess program document, labeled Exhibit A 22, ECF No. 63-1, pages 257 through 262;
7. Chess program priorities document, labeled Exhibit A 23, ECF No. 63-1, pages 263 through 272;
8. Screenshot of post on X (formerly known as Twitter) dated May 16, 2020, labeled Exhibit A 30, ECF No. 63-1, page 272;
9. Chess course participant count, labeled Exhibit A 34, ECF No. 63-1, page 273;
10. Chess course participant count, labeled Exhibit A 35, ECF No. 63-1, pages 274 through 277;
11. Chess program gender ratios, labeled Exhibit A 36, ECF No. 63-1, page 278;
12. Chess program gender ratios, labeled Exhibit A 37, ECF No. 63-1, pages 279 through 280;
13. Chess program gender ratios, labeled Exhibit A 38, ECF No. 63-1, page 281;
14. Chess program participant count, labeled Exhibit A 39, ECF No. 63-1, page 282;
15. Email dated June 11, 2020, labeled Exhibit A 41, ECF No. 63-1, pages 283 through 284;

16. Email dated May 5, 2021, labeled Exhibit A 42, ECF No. 63-1, pages 285 through 286;
17. Email dated June 30, 2020, labeled Exhibit A 51, ECF No. 63-1, pages 287 through 288;
18. Letter to Eva Moskowitz, labeled Exhibit A 55, ECF No. 63-1, pages 289 through 291;
19. Screenshot, labeled Exhibit A 56, ECF No. 63-1, page 292;
20. Offer of Employment, labeled Exhibit A 59, ECF No. 63-1, page 293;
21. Email dated October 16, 2020, labeled Exhibit A 65, ECF No. 63-1, page 294;
22. Spreadsheet, labeled Exhibit A 69, ECF No. 63-1, page 295;
23. Transcript, labeled Exhibit A 80, ECF No. 63-1, pages 305 through 307;
24. EEOC Inquiry of Tyrell Harriott, labeled Exhibit A 84, ECF No. 63-1, pages 308 through 311;
25. Job posting, labeled Exhibit 87, ECF No. 63-1, page 312;
26. Letters of Recommendation, labeled Exhibit A 89, ECF No. 63-1, pages 313 through 316;
27. Email dated June 11, 2020, labeled Exhibit A 100, ECF No. 63-1, pages 317 through 318;
28. Jerald Times, ChessBase, labeled Exhibit A 101, ECF No. 63-1, page 319;
29. Resume of Jerald Times, labeled Exhibit A 102, ECF No. 63-1, pages 320 through 322;
30. Jerald Times To be Honored as Chess Educator of the Year, University of Texas Dallas, labeled Exhibit A 103, ECF No. 63-1, pages 323 through 324;

31. Email dated October 21, 2020, labeled Exhibit A 104, ECF No. 63-1, page 325;
32. Job Description, labeled Exhibit A 105, ECF No. 63-2, pages 1 through 6;
33. Alex Zimmerman, Success Academy Official Quits Over 'Racist and Abusive' Practices at NYC Charter School Network, The City (June 23, 2020, 7:15 P.M.), labeled Exhibit A 106, ECF No. 63-2, pages 7 through 11;
34. New York charter school chain Success Academy to pay \$2.4 million in disability discrimination lawsuit, In the Public Interest (Mar. 16, 2021), labeled Exhibit A 107, ECF No. 63-2, pages 12 through 18;
35. A Black teacher questioned Eva Moskowitz's response to George Floyd's death. Now, Success Academy is facing bigger questions about race. Chalkbeat (June 16, 2020, 6:58 P.M.), labeled Exhibit A 108, ECF No. 63-2, page 19, and ECF No. 63-3, pages 1 through 7;
36. Investigation Notes regarding Tyrell Harriott, labeled Exhibit A 109, ECF No. 63-3, pages 9 through 13.
37. Plaintiff's First Request for Production of Documents to Defendants, labeled Exhibit A 110, ECF No. 63-3, pages 14 through 24;
38. Defendants' Objections and Responses to Plaintiff's First Set of Requests for the Production of Documents, labeled Exhibit A 111, ECF No. 63-3, pages 25 through 84;
39. Plaintiff's Second Request for Production of Documents, labeled Exhibit A 112, ECF No. 63-3, pages 85 through 89;
40. Defendants' Objection and Responses to Plaintiff's Second Set of Requests for the Production of Documents, labeled Exhibit A 113, ECF No. 63-3, pages 90 through 106;
41. Summary of the Plaintiff's Document Requests, labeled Exhibit A 114, ECF No. 63-3, pages 107 through 129.

The plaintiff has provided the following additional statements in opposition to the defendants' motion:

1. Employment practices experienced by Jones Murphy, ECF No. 63, page 135 through 154;
2. Summary of Jerald Times's career and achievements, ECF No. 63, page 157 through 163;
3. Summary of Jerald Times's contributions and achievements during his tenure at Success Academy, ECF No. 63-1, pages 32 through 58;
4. Summary of protected actions, retaliation, and discrimination, ECF No. 63-1, pages 89 through 113;
5. Educational and employment disparities at Success Academy, ECF No. 63-1, pages 114 through 134;
6. Incident Report regarding Giovanni Merritt, ECF No. 63-1, pages 227 through 240;
7. Task Completion Comparison between Jerald Times and Matthew Morales, labeled Exhibit A 76, ECF No. 63-1, pages 263 through 304.

The plaintiff has filed four documents that will be considered together as his memorandum in opposition to the motion for summary judgment. They are a document titled "Response to Memorandum A," located at ECF No. 63, pages 164 through 227; a document titled "Response to Memorandum B," located at ECF No. 63, pages 228 through 281; a document titled "Response to Memorandum C," located at ECF No. 63, pages 282 through 307; and additional pages of argument located at ECF No. 63-1, pages 1 through 30. These filings total 174 pages.

In his August 9 letter, the plaintiff requests permission to file an additional affidavit as well as a "correct summary" of his memorandum of law. Accordingly, it is hereby

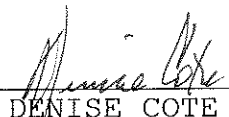
ORDERED that the defendants' reply in support of the motion for summary judgment shall be filed by October 7, 2024.

IT IS FURTHER ORDERED that the plaintiff's request to file a "correct summary" of the memorandum of law in opposition to the motion for summary judgment is denied.

IT IS FURTHER ORDERED that the plaintiff shall submit a letter of no more than two pages by August 27, 2024, informing the Court of the identity of the additional affiant and providing an explanation as to why he did not timely submit the additional affidavit. The plaintiff is instructed to submit this letter in a PDF document to the Pro Se Intake Unit at ProSe@nysd.uscourts.gov. Zip files, Microsoft Word documents, or other formats will not be accepted. The PDF document must contain the case number. The plaintiff may direct any questions regarding the filing to the Pro Se Intake Unit. The telephone number for the Pro Se Intake Unit is 212-805-0175.

IT IS FURTHER ORDERED that the plaintiff may not further supplement his opposition to the motion for summary judgment without prior permission of the Court.

Dated: New York, New York  
August 20, 2024

  
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DENISE COTE  
United States District Judge